IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTY FIRST DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 6810 of 2005

Between:

M/s.Ramesh Steel Re-Rolling Mills, plot No.4/7, IDA, Nacharam-507, rep.by its Authorised Signatory Sri Ashwin Agarwal, S/o.R.C.Agaarwal, R/o.H.No.14, Sikh Village, Near Diamond Point, Secunderabad, Hyderabad Dist.

..... PETITIONER

AND

1 The Addl. Commissioner (ARC) Hyderabad-III Commissionerate, Hyderabad.
2 The Asst. Commissioner of Central Excise, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to declar the action of the respondents in trying to sell the property of the petitioner pursuant to the notice dated 7-3-2005 in C.NO.HQAE/V/240/2001-HYD-III of the 2nd respondent as being illegal, arbitrary being violative of Articles 14 and 21 of the Constitution of India and consequently set aside the same, with a declaration that the petitioner is not in arrears of the amounts.

Counsel for the Petitioner:MR.K.CHENCHURAMI REDDY

Counsel for the Respondents: MR.A.RAJASHEKAR REDDY (ASST.SOLICITOR GEN.)

The Court made the following :

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THE HON'BLE SRI JUSTICE G.BIKSHAPATHY

AND

THE HON'BLE SRI JUSTICE P.S.NARAYANA

W.P.NO.6810 OF 2005

ORDER: (per the Hon'ble Sri Justice G.Bikshapathy)

The writ petition is filed challenging the order dated 07-03-2005 passed by the Additional Commissioner (ARC), first respondent herein.

The learned counsel for the petitioner submits that in similar matters relating to earlier period, the appeals were allowed and therefore the present order passed is illegal.

On the other hand, the learned standing counsel for the Central Government submits that the appeal lies to the Commissioner of Central Excise under Section 35 of the Central Excise Act, 1944 and, therefore, it is open for the petitioner to file an appeal.

Inasmuch as the learned standing counsel for the Central Government submits that the appeal is provided, we are not inclined to admit the writ petition. The writ petition is disposed of directing the petitioner to file appeal before the appropriate authority within a period of three weeks from the date of receipt of a copy of this order. In the meantime, the respondent shall not take any coercive steps. No costs.

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G.BIKSHAPATHY, J.

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P.S.NARAYANA, J.

Dated 31-03-2005.

SKMR

Note: Issue C.C. in three days.

B/o

Skmr

To

1 The Addl. Commissioner (ARC) Hyderabad-III Commissionerate, Hyderabad.
2 The Asst. Commissioner of Central Excise, Hyderabad

2 CD copies

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